

Application No: 09/530,253
Attorney's Docket No: PHD 98.097

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks. Claims 1 and 3 have been amended. Claims 5-9 have been added. Currently, claims 1-9 are pending in the present application of which claims 1 and 3 are independent. No new matter has been added.

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Hertel (U.S. Patent No. 5,751,246). In view of the amendment set forth above and the following remarks, these rejections are respectfully traversed.

REJECTIONS UNDER 35 U.S.C. § 102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Hertel. This rejection is respectfully traversed because the claimed invention as set forth in amended claims 1 and 3 and the claims that depend therefrom are patentably distinguishable over Hertel.

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Hertel relates to accountability and theft protection via the global positioning system. FIG. 1 illustrates the functional means for the accountability and theft protection system. The GPS receiver 14 converts GPS or differential GPS radio signals received from the GPS orbiting transponders into the spatial coordinates of the current receiver location. See col. 3, ln. 63-65. The coordinates of the GPS receiver 14 are stored in the internal database 16. See col. 4, ln. 10-11. The control logic unit 12 can be an integral part of the GPS receiver 14 or a separate component as shown. *Id.* Using the internal database 16 contents and a control algorithm, the control logic 12 causes the GPS receiver 14 to update location data and the communication subsystem 18 to send messages via the transmission antenna 15 to the external environment. *Id.* FIG. 2 illustrates the operation of the control logic unit. The control logic unit 12 reads the receiver's current spatial coordinates and box 24 indicates that the control logic unit 12 reads the permitted spatial coordinates stored in the internal database 16. See col. 5, ln. 29-33. In the next step 26, the control logic unit 12 compares both sets of coordinates to determine if the current spatial coordinates match the permitted spatial coordinates or match spatial coordinates within a permitted area. See col. 5, ln. 37-47. In step 28, if both sets of coordinates match, the control logic unit 12 repeats 22-26 with an updated set of current spatial coordinates. *Id.* However, if the current spatial coordinates fail to match the permitted spatial coordinates, the control unit then implements at step 29 an appropriate response to a remote location and may receive a response back from the remote location. *Id.*

Claim 1, as amended, recites "an information unit which is remote from the at least one data carrier for assigning one of a plurality of possible areas corresponding to said absolute position." The applicants respectfully submit that Hertel does not show this feature. This feature relates to determining the area in which an object is located while minimizing communication between the information unit and the data carrier. Hertel, on the other hand, relates to determining when an object leaves an area defined by permitted spatial coordinates. When the internal database of Hertel receives a request from a control logic unit, it simply looks up the permitted spatial coordinates and sends these coordinates to the control logic unit. See col. 5, ln. 29-33. In other words, each object in Hertel is associated with exactly one set of permitted

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spatial coordinates; the internal database does not assign one of a plurality of possible areas. Moreover, Hertel determines which permitted spatial coordinates to send to the control logic unit based on the identity of the object, not the physical location of the object. Hertel therefore does not return permitted spatial coordinates corresponding to said absolute position. Thus Hertel does not disclose "an information unit which is remote from the at least one data carrier for assigning one of a plurality of possible areas corresponding to said absolute position."

Claim 3, as amended, recites "assigning one of a plurality of possible areas corresponding to the position data by the information unit." The applicants respectfully submit that Hertel does not show this feature. This feature relates to determining the area in which an object is located while minimizing communication between the information unit and the data carrier. Hertel, on the other hand, relates to determining when an object leaves an area defined by permitted spatial coordinates. As discussed with respect to claim 1, each object in Hertel is associated with exactly one set of permitted spatial coordinates. Hertel therefore does not assign one of a plurality of possible areas. In addition, Hertel determines which permitted spatial coordinates to send to the control logic unit based on the identity of the object, not the physical location of the object. Hertel therefore does not return permitted spatial coordinates corresponding to the position data. Thus Hertel does not disclose "assigning one of a plurality of possible areas corresponding to the position data by the information unit."

Accordingly, Hertel fails to teach all of the features contained in claims 1 and 3, and thus these claims are believed to be allowable. Claim 2 depends from allowable claim 1 and is therefore allowable at least by virtue of its dependency. Claim 3 depends from allowable claim 4 and is therefore allowable at least by virtue of its dependency. The Examiner is therefore respectfully requested to withdraw this rejection.

NEW CLAIMS

Claims 5-9 have been added. Support for claims 5-9 may be found on Page 4, lines 1-15 of the application as originally filed. Claims 5-7 depend upon claim 1 and are allowable at least by virtue of their dependencies. Claims 8-9 depend upon claim 3 and are allowable at least by

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virtue of their dependencies. Therefore, the Examiner is respectfully requested to allow claims 5-9.

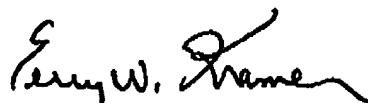
CONCLUSION

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
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